

### REMARKS

Claims 1-8 are allowed.

#### Claim Objection

The typographical error in claim 10, line 3 pointed out by the Examiner has been corrected by removing the word "in".

#### Claim Rejections – 35 USC 103

Claims 9 and 10 were rejected under 35 U.S.C 103(a) as being anticipated over US Patent No. 5,864,560 (hereinafter referred to as "Li") in view of US Patent No. 4,780,883 (hereinafter referred to as "O'Connor"). Claim 11 was rejected under 35 U.S.C 103(a) as being unpatentable over Li in view of O'Connor and further in view of Applicants' background of the invention.

Applicants respectfully assert that claims 9-11 are allowable. Claims 9 and 10 expressly require "whereby in-band signaling is used to reconfigure a modem transmitter". Li teaches sending control information using out-of band signaling. The supervisory packet taught in Li uses an additional communication channel, not the same channel as the voice channel or data channel (see Li., col. 12, lines 45-48). The supervisor packet taught in Li is not "in-band" with either a data channel or a voice channel. Li's "out-of-band" supervisory packet requires that a separate channel be wasted to send the supervisory packet. Note that using "in-band" signaling, as taught in the present invention, saves having to waste an extra channel as required by Li.

O'Connor teaches very little related to in-band signaling. What it does teach is "The ... modem uses an interpretive inband signaling as part of its speed change protocol" (O'Connor, col. 2, lines 20-23). Applicants respectfully note that one reason Li did not use in-band signaling is that in-band signaling requires that at least one selected bit sequence in an existing data stream be detected. Neither Li nor O'Connor taught any way to select a bit sequence that was highly unlikely to be produced by actual data. Thus in Li, the in-band signaling taught by O'Connor may result in a misdetection, since it is quite possible for actual user data to produce this selected bit sequence. Thus the inband signaling taught by O'Connor could produce misdetections and cause the modem system taught in Li to malfunction.

Dependent claim 11 is allowable for at least the reasons given for claim 10.

Applicants believe the application is in condition for allowance which action is respectfully solicited. Please contact me if there are any issues regarding this communication or the current Application.

Respectfully submitted,

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